

Appl. No. 10/581,731
Amdt. dated August 21, 2008
Reply to Office Action of May 21, 2008

REMARKS/ARGUMENTS

Claims 1 and 3 - 17 are presented for consideration. Claims 2 and 18 have been canceled without prejudice to the subject matter thereof and Applicants reserve the right to file divisional applications directed to the same. Claims 14 - 17 have been withdrawn. Claims 1 and 3 have been amended to set forth the steps of exposing the film to hot air. Claim 7 has been amended to clarify that the step of creating the netting material includes creating a pattern of open spaces within the film. No new matter has been added.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of the Office Action mailed May 21, 2008, claims 1 and 3 - 6 were rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over US Patent Number 5,226,992 to Morman in view of US Patent Application Number 2003/0022582 to Cree et al. and US Patent Number 4,842,794 to Hovis et al. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

In rejecting claims 1 and 3 - 6, the Office Action cites Hovis as evidence for the proposition that "[a]s to the claimed steps of extruding, forming, and exposing, this method of forming an open mesh material from a film is generally known...." (see Office Action, bottom of page 2) Applicants respectfully disagree that Hovis supports this proposition.

As to pending claim 1, step c) sets forth the step of "exposing said film to hot air while said film is under tension, such that said hot air causes polymer within said film to flow from said thin areas to said thick areas, thereby creating a pattern of open spaces within said film...." (emphasis added) It is noted that in claim 1 the "exposing" step (i.e., the hot air) **creates** the pattern of open spaces in the film. However, in Hovis, "[d]uring the embossing operations the lands of the roll's engraved patterns cross each other at an acute angle and cause a slit to be formed in the film." (see column 3, lines 43 - 46) Therefore, in Hovis it is the embossing step that creates the pattern of open spaces in the film. While Hovis goes on to teach a subsequent heating step (i.e., after the apertures are formed in the embossing step), such subsequent heating step does not render obvious Applicants' exposure to hot air that creates the open spaces. Hovis makes clear that the subsequent heating steps occur and are advantageous only after the formation of openings, not before. Hovis does not teach or suggest **creating** apertures

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by exposure to hot air as in claim 1. Therefore, the cited combination does not render claim 1 obvious in the sense of 35 U.S.C. § 103.

As to pending claim 3, step c) sets forth the step of "exposing the patterned film to hot air while said film is under tension, such that said hot air causes polymer within said film to flow from said thin areas to said thick areas, thereby **creating** a pattern of open spaces within said film; such that a netting material is formed...." (emphasis added) It is noted that, like in claim 1, in claim 3 the "exposing" step (i.e., the hot air) **creates** the pattern of open spaces in the film. For the same reason as set out for claim 1, Hovis does not teach or suggest **creating** openings by exposure to hot air as in claim 3. Therefore, the cited combination does not render claim 3 or claims depending therefrom obvious in the sense of 35 U.S.C. § 103.

Claims 7 and 13 were rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over US Patent Number 3,441,638 to Patchell et al. in view of US Patent Number 4,248,822 to Schmidt and Hovis. This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

Patchell is directed to a method of producing an open network structure by biaxially stretching a sheet of thermoplastic material having a plurality of non-connected depressions which are convergent downwardly from the open outer end, **said stretching being sufficient to split the material below said depressions**. (Abstract) Patchell further sets forth that in many cases the openings in the network structures formed by the method (i.e., the stretching method) will have various arrangements of bands interconnecting portions of the material across the openings. These can be melted to merge with the main solid material and to clear the openings, by a flaming treatment or by blowing thereon with a hot gas, for example air. As noted above for Hovis, Patchell's heat treatment is applied after the openings are **created by the stretching step**. Patchell does not teach or suggest that the openings are **created by the heating step** as set forth in amended claim 7. Rather, Patchell's heating step is utilized to clear the openings after stretching creates the openings by splitting the material in the depressions.

Schmidt is cited for the proposition that a film can be deformed with simultaneous cooling in an embossing nip. Schmidt further teaches that protrusions in a film can be heated for a short time for shrinking the end surfaces of the protrusions, resulting in openings being formed. (see column 2, lines 1 – 5) The heating of the end surfaces is suitably effected by contact heat from

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a hot roller. Importantly, the roller heats only the end surfaces of the protrusions. (see column 2, lines 16 – 21). Claim 7 sets forth that the patterned film is heated by an air stream. Schmidt does not teach or suggest heating with an air stream. In fact, Schmidt teaches away from heating with air by stressing the importance of heating only the end surfaces of the protrusions. An air stream directed at the film would not be so targeted in the application of the heat. Therefore, Schmidt does not correct the deficiency of Patchell identified above.

Further, Hovis does not correct the deficiency of Patchell for the reasons set forth above for claims 1 and 3. Recall that in Hovis the embossing step creates the pattern of open spaces in the film, not exposure to hot air.

Accordingly, the cited combination does not render claim 7 or the claims depending therefrom obvious in the sense of 35 U.S.C. § 103.

Claim 13 was rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Patchell in view of Schmidt and Hovis as applied to claims 7 and 13, and further in view of US Patent 3,985,600 to Blais. Blais does not correct the deficiencies described above for Patchell, Schmidt and Hovis, therefore, the cited combination does not render claim 13 obvious in the sense of 35 U.S.C. § 103.

Claims 7 – 13 were rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Mormon in view of Cree, and further in view of Patchell and Schmidt, and optionally further in view of Hovis. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims. Mormon does not correct the deficiency described above regarding the failure of Patchell, Schmidt, and Hovis to teach or suggest creating open spaces in the patterned film of claim 7 by exposure to a heated air stream. Accordingly, the cited combination does not render claim 7 or the claims depending therefrom obvious in the sense of 35 U.S.C. § 103.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

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The undersigned may be reached at: 770-587-8626.

Respectfully submitted,

DAY ET AL.

By: 

Richard M. Shane
Registration No.: 50,921
Attorney for Applicant(s)

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